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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,989	02/27/2002	Greg Johnson	33692.01.0053	9054
23418	7590	08/26/2004	EXAMINER	
VEDDER PRICE KAUFMAN & KAMMHOLZ 222 N. LASALLE STREET CHICAGO, IL 60601			VU, VIET DUY	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

10/085,989

Applicant(s)

JOHNSON ET AL.

Examiner

Viet Vu

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 9 is/are rejected.
- 7) ☒ Claim(s) 2 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

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- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**Art Rejections:**

1. The text of 35 U.S.C. § 103(a) cited in the previous office action is hereby incorporated by reference.

2. The rejection of claims 1, 3-7 and 9 under 35 U.S.C. 103(a) as being unpatentable over Newlin, U.S. pat. No. 6,011,909, in view of Bellemore, U.S. pat. No. 6,088,728, paper #5, mailed 3/15/2004, is hereby incorporated by reference.

**Allowable Subject Matter:**

3. Claims 2 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Response to Amendment:**

4. Applicant's arguments filed on 6/18/04 with respect to claims 1-19 have been fully considered but they are not deemed persuasive.

Applicant alleges that Newlin fails to teach the claimed invention because Newlin does not teach the claimed multimodal communications that allow transmitting a request in one mode and receiving data in a different mode.

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This is not found persuasive. Newlin's teachings of performing simultaneous multiple communication modes clearly meet the claimed multimodal communications. It is noted that multimodal communication as defined by applicant's disclosure does not exclude communications that transmit and receive data in the same communication mode (see page 3, lines 6-13). Moreover, even if multimodal communications are to be construed only to communications that transmit a request in one mode and receive data in a different mode, Newlin's teachings still meet the claimed limitation as Newlin's multiple communication modes can be conducted upon the same topic and/or user. For example, when two users are communicating via two separate communication channels, e.g., voice and video, the second user can respond to the first user's voice request by using voice or video communication modes.

Applicant also alleges that Newlin does not teach a user agent program configured for different concurrent multimodality communications.

This is not found persuasive. Newlin's user interface program (135, fig. 1) allows user to interact with different communication modes (see col 4, lines 1-27).

Applicant further alleges that Newlin fails to teach maintaining non-session status for a multimodal communication.

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This is not found persuasive. It is submitted that Newlin's non-active communication session is analogous to claimed non-session multimodal communication (see col 5, lines 45-67).

**Conclusion:**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is (703) 305-9597. The examiner can normally be reached on Monday through Friday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on (703) 305-8498.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



VIET D. VU  
PRIMARY EXAMINER

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8/23/04

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